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SENATE BILL 917

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO WORKERS' COMPENSATION; REQUIRING REPORTS OF
WORKERS' COMPENSATION INSURANCE CARRIERS' AUDITS OF EMPLOYERS
AND DISTRIBUTION OF WORK FORCE INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-58 NMSA 1978 (being Laws 1937,
Chapter 92, Section 14, as amended) is amended to read:

"52-1-58. REPORTS TO BE FILED WITH DIRECTOR. --

A. [~~It is the duty of~~] Every employer of labor in
this state subject to the provisions of the Workers'
Compensation Act, or the employer's workers' compensation
insurance carrier, [~~to~~] shall make a written report to the
director of all accidental injuries or occupational diseases
that occur to any of his employees during the course of their
employment and that result in lost time of an employee of more

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1 than seven days. A copy of the report shall be sent by the
2 employer to the worker. [~~Such~~] Reports shall be made within
3 ten days after [~~such~~] accidental injury or ten days after
4 notification to the employer of employee disability upon forms
5 approved by the director and shall contain such information
6 concerning the accident or injury as may be required by the
7 director.

8 B. Upon request of the director, [~~it is also the~~
9 ~~duty of~~] every workers' compensation self-insurer and insurance
10 carrier [~~to~~] shall file with the director closing reports upon
11 the closing of a claim on forms approved by the director.
12 Annual reports [~~will~~] shall be required on a form approved by
13 the director.

14 C. Annual reports to the director required in
15 Subsection B of this section from an insurance carrier shall
16 include identification of employers that significantly
17 underestimated for insurance premium setting purposes the
18 number of workers that the employer anticipated employing
19 during the policy period and on whom workers' compensation
20 insurance coverage is required during the period of coverage by
21 the insurance policy. If an insurance carrier audits an
22 employer at any time during the policy period or more than one
23 time per year, a report shall be submitted by the insurance
24 carrier to the director within thirty days of the day on which
25 the audit is completed if the audit discovers a significant

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1 underestimate in the number of workers that the employer
2 intended to employ. The director shall adopt rules to
3 implement this subsection, including establishing the meaning
4 of "significantly underestimated" as it applies to employers of
5 different work force sizes."

6 Section 2. Section 52-1-62 NMSA 1978 (being Laws 1937,
7 Chapter 92, Section 18, as amended) is amended to read:

8 "52-1-62. DIRECTOR TO ENFORCE WORKERS' COMPENSATION
9 ACT. --

10 A. For the purpose of enforcing the Workers'
11 Compensation Act, ~~[there are hereby conferred upon]~~ the
12 director has the following powers and duties:

13 ~~[A.]~~ (1) when ~~[any]~~ an employer subject to the
14 provisions of the Workers' Compensation Act fails to comply
15 with Section 52-1-4 NMSA 1978 relating to the filing of ~~[an~~
16 ~~undertaking in the nature of insurance]~~ evidence of workers'
17 compensation insurance coverage or sufficient security for the
18 payment of benefits under the Workers' Compensation Act, the
19 director ~~[is empowered to institute]~~ may initiate in his own
20 name an action in the district court of Santa Fe county or the
21 county where the employer resides or has his principal office
22 or place of business to enjoin the employer from continuing his
23 business operations until he has complied with the provisions
24 of Section 52-1-4 NMSA 1978, and upon a showing of the ~~[facts~~
25 ~~above recited]~~ failure to comply with the requirements of

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1 Section 52-1-4 NMSA 1978, the court shall grant such
2 injunction. In any such action, the attorney general or
3 district attorney for the judicial district where the action is
4 brought shall represent the director; and

5 ~~[B-]~~ (2) for the purpose of ascertaining the
6 ~~[correctness]~~ accuracy of any reported wage expenditure, the
7 number of ~~[men]~~ persons employed and other information
8 necessary in the administration of the Workers' Compensation
9 Act, the director may, upon his own initiative or upon request
10 of any interested party, hold hearings and subpoena all books,
11 records and payrolls of ~~[any]~~ an employer subject to the
12 provisions of the Workers' Compensation Act ~~[which]~~ that show
13 ~~[or reflect in any way upon]~~ the amount of wage expenditures of
14 ~~[such]~~ the employer or other facts, data or statistics
15 ~~[appertaining]~~ pertaining to the purposes of ~~[that]~~ the
16 Worker's Compensation Act.

17 B. The director shall provide to the taxation and
18 revenue department and the labor department the names,
19 addresses and contact information of employers that
20 significantly underestimate for workers' compensation insurance
21 premium setting purposes the number of workers that the
22 employer employed during the policy coverage period."